

Notice of Allowability

Application No.

09/876,997

Examiner

Delia M. Ramirez

Applicant(s)

DUMAS MILNE EDWARDS ET AL

Art Unit

1652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 3/24/2005.
2. ☒ The allowed claim(s) is/are 23-25,27,28,30 and 31.
3. ☒ The drawings filed on 21 June 2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 6/21/2004
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

RD

DETAILED ACTION

Status of the Application

Claims 23-25, 27-28, 30-31 are pending.

Applicant's request for reconsideration and submission of references by Roberts et al. (J. Biol. Chem. 273(34):22059-22067, 1998), McCaman et al. J. Biol. Chem. 240(9):3513-3517, 1995), and Kai et al. (J. Biol. Chem. 272(39):24572-24578, 1997) in a communication filed on 3/24/2005 are acknowledged.

As indicated previously, the IDS filed on 6/21/2004 has been considered. This IDS is being submitted herein with the references in pages 2-3 initialed as requested.

Examiner's Amendment

1. An informal Examiner's amendment to the specification appears below. This amendment is to update the current status of prior applications in the first sentence of the specification (37 CFR 1.78).
2. Please enter the following amendments to the specification as follows:
3. In page 1, please replace lines 3-6 with the following paragraph:

The present application is a continuation-in-part application of U.S. Serial No. 09/731,872, filed December 7, 2000, now abandoned, which claims priority, under 35 USC § 119(e), to the US Provisional Patent Applications Serial No. 60/169,629 and 60/187,470 filed December, 8, 1999, and March, 6, 2000, respectively, the disclosures of which are incorporated herein by reference in their entireties.

Reasons for Allowance

4. The following is an Examiner's statement of reasons for allowance. Although no experimental evidence has been presented indicating that the polypeptide of SEQ ID NO: 399 is a phosphatidic acid phosphatase, and no information has been provided in regard to the biological

Art Unit: 1652

processes/diseases/disorders associated with the polypeptide of SEQ ID NO: 399, in view of (1) Applicant's assertion in paragraphs 1547-1549 (U.S. Publication No. 20030152921) indicating that the polypeptide of SEQ ID NO: 399 is a phosphatidic acid phosphatase which catalyzes the conversion of phosphatidic acid into diacylglycerol, (2) and Applicant's arguments (i) reiterating that the polypeptide of SEQ ID NO: 399 is a phosphatidic acid phosphatase which can be used to produce a useful compound, i.e. diacylglycerol, and (ii) indicating that assays to detect phosphatidic acid phosphatase activity are known in the art as well as substrates for phosphatidic acid phosphatases, the utility rejection previously applied is hereby withdrawn. Furthermore, the Examiner has found no teaching or suggestion in the prior art directed to the polypeptide of SEQ ID NO: 399. Therefore, claims 23-25, 27-28, 30-31 directed to the polypeptide of SEQ ID NO: 399 are allowable over the prior art of record.

Conclusion

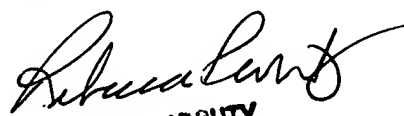
5. Claims 23-25, 27-28, 30-31 are allowed.
6. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Delia M. Ramirez whose telephone number is (571) 272-0938. The examiner can normally be reached on Monday-Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Ponnathapura Achutamurthy can be reached on (571) 272-0928. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1600.

Delia M. Ramirez, Ph.D.
Patent Examiner
Art Unit 1652

DR
April 21, 2005


REBECCA E. PROUTY
PRIMARY EXAMINER
GROUP 1800
1652